IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1114 OF 2006

Sanjeev Vithal Deshpande ...Applicant.

V/s

1. Intelligence Officer
N.C.B. and ors. ...Respondents.

Mr. A.P. Mundargi i/b P.R. Arjunwadkar for the applicant.

Mr. D.N. Salvi for Union of India.

Ms. S.D. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 21st March, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant is seeking a limited prayer that he may be protected for a brief period in respect of the complaint which was registered by N.C.B. Regional Intelligence Unit, Thiruvanantpuram at C.R. No. 3 of 2005 for the offecnes punishable under the provisions of the N.D.P.S. Act. It is submitted that the charge-sheet has been filed in the said case.

3. It is the case of the applicant that the provisions

of N.D.P.S. Act were not applicable and, therefore, he would like to prefer an application for anticipatory bail before the Competent Court in the State of Kerala. It is submitted that the three High Courts have held that the provisions of the N.D.P.S. Act are not applicable to Buprenorphine. He submitted that, in the present case also, the applicant was working as a Vice President of M/s. Rusan Health Care Pvt. Ltd.

4. The learned Counsel appearing on behalf of respondent No.1 vehemently opposed the said application. He submits that so far as the merits are concerned, there are judgments of the Supreme Court in which it has been held that Buprenorphine is a psychotropic substance.

5. In my view, this Court does not have jurisdiction to grant the prayer of anticipatory bail since the complaint has been lodged in Kerala. However, considering the fact that there are judgments of the three High Courts, viz. Hon'ble Delhi High Court, Uttaranchal High Court and Bombay High Court wherein, in similar cases, it has been held that Buprenorphine, when used in medicines, would not attract the

provisions of the N.D.P.S. Act, a limited prayer can be granted to the applicant in order to enable him to approach the Competent Court in the State of Kerala and seek appropriate orders.

6. In the result, the applicant is given two weeks time to approach the Competent Court in Kerala and during this period commencing from 23/3/2006, the applicant shall not be arrested in connection with C.R. No.3 of 2005 registered by N.C.B. Regional Intelligence Unit, Thiruvanathapuram for the offence punishable under the provisions of N.D.P.S. Act.

7. Application is disposed of.

V.M. KANADE, J.